

Independent.

HARRIS
The One-Price Clothier
ST. LOUIS BLOCK,
MAIN STREET.

In deciding upon the sufficiency of the cause here shown, it is necessary, in the first place, to consider and determine the

their duty as defined by the law or not, or whether the certificates or attestations made by the judges and clerks were in due form of law, or whether the tickets, which were then countersigned by the names of the voters on the tally sheets, or suffered some one else to do it for them, or, finally, whether the returns of the election were transmitted in the mode prescribed by the statute, or reached them in a different way. Some, or all of these may be important questions, and the law provides a method, as also a tribunal, in which they may be raised and decided; but the law does not demand the use of canvassing board. Again, quoting the language of Judge Knowles, in the case of *Chunnamero vs. Potts*, "officers whose duty by law is to canvass returns have no

said county, and for all the other of
heers for the proposed state of Mon-
tana, east at said election, on the
first day of June, 1890, that you
counted the vote cast at said election
of all precincts of the said county, except
the vote cast at precinct No. 34 of the said
county, and this you refused to count; that
by the returns so counted by you, exclusive
of precinct 34, said relator received 3,383
votes; that the clerk, and judge, and
opponent, the said Hamilton, received
votes for said office; that the relator re-
ceived 171 votes at precinct No. 34, and his
opponent, the said Hamilton, received three
votes at said precinct; that, exclusive of
said vote at said precinct 34, said Hamilton
received a majority of twenty-seven
votes; that the clerk, and judge, and
including said vote at said precinct, the rela-
tor received a majority of twenty-seven
votes; that it was your duty, as said
board of canvassers to count the returns
of the various voting precincts of the
said county, and to instruct the clerk
votes thereof; that the clerk, and com-
missioners of Silver Bow county re-
ceived by mail the returns of said precinct
No. 34, duly sealed and addressed to him;
that the said clerk duly handed to the
board of canvassers, the returns thus re-
ceived by mail, and you refused to open
opened by you, while sitting as such board
of canvassers, engaged in the discharge
of your official duties, and found to be regular,
and in substantial compliance with the re-
quirements of the law to be: The said re-
turns, named and the propertly sheet, ex-
tensions, named and the propertly sheet, ex-
the number of votes received by each can-
didate, extended at full length in words, du-

Mr. Toole made the closing argument in behalf of the relator. He said that if the position taken by counsel for respondent was correct, then it was in the power of an attorney to cause a writ of habeas corpus to be issued to a person who was not entitled to the office of that office by appealing, as in this case, and filing this indemnity bond. Mr. Toole then cited numerous cases which were in point, stating that an appeal would not be one of these things, as shown by reference to the statutes of California that the decisions of the supreme court of that state, upon which so much reliance had been placed by Judge Knowlton, would not be binding. He then stated that appeals would lie in many cases and that until the enactment of the statute, it was uniformly held by the supreme court of the state that appeals were allowable. He said that there would be no appeal to the supreme court of the territory until January, and the \$300 bond would not be sufficient security to the relator for the emoluments of the office to which he had been elected, and where the board of supervisors had affirmed, his only redress would be against his opponent, who, during that time, would receive the emoluments of the office. Mr. Toole then proceeded to discuss at length the question of the right of the board and insisted that no official action had been taken by the board regarding this appeal proceeding. Mr. Jack was beyond the jurisdiction of the court and not amenable to its process, and he said that for a moment he was maintained that any action taken by the

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Accused of Theft.
WASHINGTON, Oct. 31.—Lawrence Perry Dawson, son of ex-Commissioner Dawson, of the bureau of education, has been arrested on the charge of larceny of \$91 worth of postage stamps from the bureau where he has been employed. His friends assert he will be able to clear himself.

Knocked Out by McCoy.
LOS ANGELES, Oct. 31.—Pete McCoy, of Boston, knocked out Ed Cuff, of San Francisco, in two rounds to-night.